

Introduced by Senator Leno

February 17, 2016

An act to amend Sections 1571 and 1572 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1115, as introduced, Leno. Unclaimed Property Law

Under the existing Unclaimed Property Law, any tangible or intangible personal property, demand, savings, or matured time deposit, or other prescribed deposits or accounts escheat to the state when the owner of the deposits or accounts has not, for more than 3 years, indicated an interest in the deposit, as specified. The Unclaimed Property Law authorizes the Controller to examine a person's records if the Controller has reason to believe that the person has failed to report property that should have been reported pursuant to that law. Existing law also permits the Controller to bring an action for specified purposes to enforce the Unclaimed Property Law.

This bill would instead authorize the Controller to examine records under this law even if the holder of those records does not believe that he or she has failed to report property, as required. This bill would also require a court to award the Controller its costs and attorney's fees if he or she prevails on an action to enforce the Unclaimed Property Law, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1571 of the Code of Civil Procedure is amended to read:

1571. (a) The Controller may at reasonable times and upon reasonable notice examine the records of ~~any~~ a person *even* if the ~~Controller has reason to believe that the person is a holder who~~ person does not believe that he or she has failed to report property that should have been reported pursuant to this chapter.

(b) When requested by the Controller, the examination shall be conducted by ~~any~~ a licensing or regulating agency otherwise empowered by the laws of this state to examine the records of the holder. For the purpose of determining compliance with this chapter, the Commissioner of Business Oversight is vested with full authority to examine the records of ~~any~~ a banking organization ~~and any~~ or savings association doing business within this state but not organized under the laws of or created in this state.

(c) Following a public hearing, the Controller shall adopt guidelines as to the policies and procedures governing the activity of third-party auditors who are hired by the Controller.

(d) Following a public hearing, the Controller shall adopt guidelines, on or before July 1, 1999, establishing forms, policies, and procedures to enable a person to dispute or appeal the results of ~~any~~ a record examination conducted pursuant to this section.

SEC. 2. Section 1572 of the Code of Civil Procedure is amended to read:

1572. (a) The ~~State~~ Controller may bring an action in a court of appropriate jurisdiction, as specified in this section, for any of the following purposes:

(1) To enforce the duty of ~~any~~ a person under this chapter to permit the examination of the ~~records of such person~~ *person's records*.

(2) For a judicial determination that particular property is subject to escheat by this state pursuant to this chapter.

(3) To enforce the delivery of ~~any~~ property to the ~~State~~ Controller as required under this chapter.

(b) The ~~State~~ Controller may bring an action under this chapter ~~in any court of this state~~ *a state court* of appropriate jurisdiction in any of the following cases:

1 (1) ~~Where the~~ *The* holder is ~~any~~ a person domiciled in this state,
2 or is a government or governmental subdivision or agency of this
3 state.

4 (2) ~~Where the~~ *The* holder is ~~any~~ a person engaged in or
5 transacting business in this state, although not domiciled in this
6 state.

7 (3) ~~Where the~~ *The* property is tangible personal property and is
8 held in this state.

9 (c) ~~In any case where no court of this state can~~ *If a state court*
10 *cannot* obtain jurisdiction over the holder, the ~~State~~ Controller
11 may bring an action in any federal or state court with jurisdiction
12 over the holder.

13 (d) *If the Controller prevails in an action brought pursuant to*
14 *this section, the court shall award the Controller his or her costs,*
15 *including attorney's fees.*